

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
NORTHERN DIVISION

JARRELL TERRY
ADC #149998

PLAINTIFF

v. No. 1:18-cv-81-DPM-BD

SAMUEL F. GUILTNER, Corporal,
North Central Unit; WALKER, Corporal,
North Central Unit; CODY GARRIS,
Disciplinary Hearing Clerk, North
Central Unit; STEPHEN WILLIAMS,
Warden, North Central Unit; TERRIE
L. BANNISTER, Disciplinary Hearing
Officer, Arkansas Department of
Correction; RAYMOND NAYLOR,
Disciplinary Hearing Officer, ADC;
and WENDY KELLEY, Director, ADC

DEFENDANTS

ORDER

1. On *de novo* review, the Court adopts Magistrate Judge Deere's partial recommendation, No. 5, as supplemented and overrules Terry's objections, No. 8. FED. R. CIV. P. 72(b)(3). The supplement: The facts alleged in Terry's complaint don't support a conspiracy claim under § 1985 or § 1986. *Rouse v. Benson*, 193 F.3d 936, 943 (8th Cir. 1999). And his complaint doesn't allege the type of deliberate indifference or tacit authorization required to hold Warden Williams or Director Kelley liable based on their supervisory positions. *Tlamka v. Serrell*, 244 F.3d 628, 635 (8th Cir. 2001).

2. Terry's excessive force claim against Guiltner and Walker goes forward. All other claims and Defendants are dismissed without prejudice.

3. The Court directs the Clerk to send Terry copies of his *in forma pauperis* application and complaint, № 1 & № 2, with a copy of this Order.

So Ordered.

D.P. Marshall Jr.

D.P. Marshall Jr.
United States District Judge

17 December 2018